UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1996/80
28 November 1995

ENGLISH
Original: ENGLISH/FRENCH/
SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-second session
Item 15 of the provisional agenda

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

Report of the Secretary-General prepared pursuant to Commission resolution 1995/29

CONTENTS

		Page
Introduction		2
I.	COMMENTS RECEIVED FROM STATES	
	A. Angola	3
	B. Mexico	3
	C. Uruguay	5
II.	COMMENTS SUBMITTED BY SPECIALIZED AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS	
	A. International Labour Organization	6
	B. Commonwealth Secretariat	7
	C. Inter-American Commission on Human Rights	7
III.	COMMENTS SUBMITTED BY A NON-GOVERNMENTAL ORGANIZATION	
	International Institute of Humanitarian Law	8
Annex.	Declaration of Minimum Humanitarian Standards	12

GE.95-14648 (E)

Introduction

1. In its resolution 1995/29 of 3 March 1995, entitled "Minimum humanitarian standards", the Commission on Human Rights invited all States to consider reviewing their national legislation relevant to situations of public emergency with a view to ensuring that it meets the requirements of the rule of law and that it does not involve discrimination on the ground of race, colour, sex, language, religion or social origin (para. 3).

2. In paragraph 4, the Commission requested the Secretary-General to transmit the text of the Declaration of Minimum Humanitarian Standards adopted by a group of experts at a meeting in Turku (Åbo), Finland, in December 1990 (E/CN.4/Sub.2/1991/55) to Governments and intergovernmental and non-governmental organizations for their comments and to submit a report on this matter to the Commission on Human Rights at its fifty-second session. The text is reproduced as an annex to the present report.

3. Pursuant to this request, the Secretary-General, on 27 September 1995, addressed requests to Governments and competent intergovernmental and non-governmental organizations for their comments on the Declaration of Minimum Humanitarian Standards.

4. By 20 November 1995, replies had been received from the following States: Angola, Mexico, Uruguay.

5. Replies were also received from the International Labour Organization, the Commonwealth Secretariat and the Inter-American Commission on Human Rights.

6. The following non-governmental organization submitted comments: International Institute of Humanitarian Law.

7. The present report contains a summary of the substantive replies received. Any additional replies will be reproduced in an addendum to this document.

I. COMMENTS RECEIVED FROM STATES

A. Angola

[Original: French]
[23 October 1995]

The Government of Angola constantly updates its national legislation in an emergency situation to ensure that it is in keeping with the requirements of the rule of law and does not lead to any discrimination based on race, colour, sex, language, religion or social origin.

B. Mexico

[Original: Spanish]
[15 November 1995]

1. The Government of Mexico recognizes and fully agrees with the concern expressed in various bodies about the urgent need to improve the enforcement of international humanitarian law. It considers that the capacity of impartial humanitarian organizations to provide humanitarian assistance to the victims of armed conflicts has been adversely affected by the outbreak of new international conflicts. Similarly, the growing contradiction between the international obligations of some parties to armed conflicts and the inhuman practices of those same parties has really put international humanitarian law to the test. It must also be borne in mind that the arms trade and the uncontrolled proliferation of weapons of all kinds are a serious affront to respect for the rules of international humanitarian law.

2. Respect for international humanitarian law does not depend at the present time on attempts to formulate new provisions whose main purpose is to broaden the material scope of the relevant legal instruments which are in force, as the Turku Declaration aims to do. Rather, the strengthening of international law calls for new rules which, in view of the basic nature of weapons, prohibit all aspects of weapons which are such as to have indiscriminate effects or cause unnecessary suffering.

3. In the light of the foregoing, the Government of Mexico considers that the Turku Declaration is not an appropriate instrument for improving the situation of the victims of armed conflicts, particularly the civilian population, and for promoting greater respect for international humanitarian law.

4. In the first place, the material scope of the Turku Declaration contradicts the definition of non-international armed conflicts contained in article 1 of Additional Protocol II to the 1949 Geneva Conventions. Although Mexico is not a party to this Protocol, it took part in its negotiation. In this connection, it should be recalled that, during the travaux préparatoires for the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts (1974-1977), it was agreed that account should not be taken of internal disturbances, since human rights instruments cover this type of situation. It should also be pointed out that, in trying to define non-international armed conflicts on the

basis of objective criteria, the international community was of the opinion that the concept of armed conflict is the basic material criterion for any definition, since an armed conflict presupposes the existence of open hostilities between armed forces which are organized to a greater or lesser degree. In the opinion of the International Committee of the Red Cross (ICRC), "Internal disturbances and tensions, characterized by isolated or sporadic acts of violence, do not therefore constitute armed conflict in a legal sense, even if the Government is forced to resort to police forces or even to armed units for the purpose of restoring law and order" (commentary to the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949, International Committee of the Red Cross, Martinus Nijhoff Publishers, Geneva, 1986, pp. 1343-1344).

5. Situations of internal violence, disturbances, tensions and public emergency and other similar situations are therefore not armed conflicts within the meaning of international law. Wanting to formulate rules to govern internal situations, as the Turku Declaration does, thus constitutes interference in matters which are within the internal jurisdiction of States, in accordance with Article 2, paragraph 7, of the Charter of the United Nations, regardless of the humanitarian objectives that may be sought.

6. As stated above, emergency situations (internal disturbances or public emergency) are governed by the universal and regional legal instruments relating to human rights to which Mexico is a party. Such instruments establish minimum rules which are applicable to emergency situations and provide not only that rights may not be suspended under any circumstances, but also state the legal requirements to which any suspension is subject. In such a case, the State party has an obligation immediately to inform the other States parties, through the intermediary of the Secretary-General, of the rights that have been suspended, as well as of the reasons therefor and the date on which the suspension will end (art. 27 of the American Convention on Human Rights and art. 4 of the International Covenant on Civil and Political Rights, for example). It is therefore considered that there is no justification for adopting additional rules of international humanitarian law, since human rights law already exists.

7. Most of the human rights to which articles 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14 of the Turku Declaration refer are already embodied in the various legal and political instruments relating to human rights, as well as in those relating to international humanitarian law. If it was to be supported by the community of States, the Turku Declaration would not develop international law in any way.

8. With regard to article 5, paragraph 3, of the Declaration, it should be emphasized that such recent international legal instruments as the 1992 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction draw a clear-cut distinction between the use of certain conventional weapons in international armed conflicts and their use in internal situations. Thus, the use of a weapon may be prohibited in the first case and not in the second, when it is

necessary for law enforcement including domestic riot control purposes (art. II, para. 9 (d), of that Convention). The same may be said of tear-gas, which is commonly used to maintain law and order, but is prohibited in international armed conflicts by the relevant legal instruments.

9. In connection with article 15 of the Turku Declaration, it should be recalled that the activities of humanitarian organizations should focus on the guiding principles relating to the strengthening of the coordination of humanitarian emergency assistance contained in United Nations General Assembly resolution 46/182 and, in particular, the principle that humanitarian assistance must be provided with the consent of the State concerned.

10. Lastly, the Government of Mexico expresses its most serious reservation about the mechanism that article 2 of the Turku Declaration aims to establish. Notwithstanding the principle that States parties to the Geneva Conventions are under ar obligation to respect and ensure respect for international humanitarian law, it cannot be claimed that this obligation also applies to "all persons, groups and authorities", as provided in article 2 of the Declaration. The objective of the authors of the Declaration is no doubt to provide for "decentralized enforcement of its standards by all who can help and are involved in activities such as monitoring, reporting and peace-keeping, which includes, of course, Governments and intergovernmental and non-governmental organizations, as well as thematic groups and rapporteurs and special country rapporteurs appointed by the United Nations" (Asbjorn Eide, Allan Rosas and Theodor Meron in "Combating Lawlessness in Gray Zone Conflicts through Minimum Humanitarian Standards", American Journal of International Law, vol. 89, No. 1, January 1995, p. 217). In the opinion of the Government of Mexico, the State is the subject of international law par excellence and its prerogatives include that of taking part in the formulation of its rules and ensuring their implementation, without any delegation of such functions to bodies which are not of that nature.

C. Uruguay

[Original: Spanish]
[15 November 1995]

1. First of all, the word "formal" should be included in the last sentence of article 1 of the proposed text in order to strengthen the wording of the obligation that is incumbent on States to respect these standards, notwithstanding any express declaration of a state of emergency that the State might make.

2. Uruguay also considers that the Declaration should contain an additional article specifying that the states of emergency to which the Declaration refers must follow the guidelines drawn up by the Special Rapporteur, Mr. Leandro Despouy, and contained in document E/CN.4/Sub.2/1991/28/Rev.1, regardless of the nomen juris which such situations are given in internal law.

3. Article 3 should also contain two subparagraphs prohibiting the following acts: mass detention of persons on the grounds of race, religion, nationality or political opinion; and the collective expulsion of persons on

the same grounds. In our view, the inclusion of these two subparagraphs would be in keeping with the provisions of article 7, paragraph 2, and article 9 (b) of the draft.

II. COMMENTS SUBMITTED BY SPECIALIZED AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS

A. International Labour Organization

[Original: English]
[9 November 1995]

1. The ILO's work concentrates mainly on establishing conditions in which normal civic guarantees can be respected. It has nevertheless examined the draft Declaration with interest, as there are some situations in which humanitarian standards are of immediate interest to the ILO.

2. As concerns the preamble, political opinion is omitted from the list of grounds on which discrimination may not be practised. This prohibited ground of discrimination is found in the ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and should be added here.

3. The draft contains no statement on the right of association, which is provided for in United Nations instruments as well as in ILO Conventions and Recommendations. In this connection, the ILO draws attention to the following passage from the 1994 General Survey on Freedom of Association and Collective Bargaining, adopted by the ILO Committee of Experts on the Application of Conventions and Recommendations at its 1994 session:

> "The freedom of association Conventions contain no provisions allowing the invocation of a state of emergency to justify exemption from the obligations arising under the Conventions or any suspension of their application. This motive is frequently invoked and the exercise of trade union rights is seriously endangered thereby. Such a pretext cannot be used to justify restrictions on the civil liberties that are essential to the proper exercise of trade union rights, except in circumstances of extreme gravity (acts of God, serious disruption of civil order, etc.), and on condition that any measures affecting the application of the Conventions are limited in scope and duration to what is strictly necessary to deal with the situation in question. While it is conceivable that the exercise of some civil liberties, such as the right to public assembly or the right to hold street demonstrations, might be limited, suspended and even prohibited, it is not permissible that, in the field of trade union activities, the guarantees relating to the security of the person should be limited, suspended or abolished.
>
> "The ILO supervisory bodies assess measures taken against workers' or employers' organizations during a political or civil crisis in the light of the exceptional circumstances prevailing at the time to determine independently whether the circumstances invoked by a State justify a temporary exemption from the principles of freedom of association; the States concerned are not allowed to be sole judge of the issue."

4. In the light of this passage, the ILO suggests that it would be appropriate to add to the draft protection of the right to continued freedom of association during times of emergency or crisis, and the need to ensure that "any measures affecting the [right of association] are limited in scope and duration to what is strictly necessary to deal with the situation in question".

5. Article 4 of the draft deals with the situation of persons deprived of their liberty, a subject dealt with extensively in the two ILO Conventions on forced labour: the Forced Labour Convention, 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105), as well as in the comments of the ILO supervisory bodies on them. Article 4 (4) of the draft does refer to "working and social conditions", but it might be productive to add "in accordance with international human rights standards" to cover a reference not only to the ILO standards but also to the various United Nations standards on human rights in the administration of justice.

6. Article 7 on the displacement of the population in cases of emergency closely reflects the provisions of the ILO's Indigenous and Tribal Peoples Convention, 1989 (No. 169), in particular in including a "right to return" passage. The ILO notes, however, that this article does not cover the need to ensure that displaced populations have a right to some form of economic activity.

B. Commonwealth Secretariat

[Original: English]
[1 November 1995]

1. The Commonwealth, as is set out in the Harare Declaration, is committed to the promotion of human dignity in all circumstances, as one of its fundamental values. Thus, the Declaration, re-emphasizing as it does much of the essential content of the 1977 Protocols to the 1949 Geneva Conventions, is to be welcomed as is adherence to it in practice.

2. The Secretariat, in accordance with the mandate of member States, will continue to promote that essential dignity in cooperation with members. In particular, the Legal and Constitutional Affairs Division stands ready to assist members wherever possible in their efforts to realize the Declaration by, inter alia, steps recommended in Commission resolution 1995/29.

C. Inter-American Commission on Human Rights

[Original: English]
[14 November 1995]

The Inter-American Commission on Human Rights indicated that it had addressed issues relating to the topic of minimum humanitarian standards in the context of its mandate to promote and protect human rights in the hemisphere. In this connection, references were made to chapter IV of its 1994 Annual Report on the "Status of Human Rights in Several Countries"

with regard to Colombia, and to an individual case (Report No. 31/93, Case No. 10,573 of 14 October 1993) concerning the United States action in Panama, referred to in chapter III of its 1993 Annual Report.*

III. COMMENTS SUBMITTED BY A NON-GOVERNMENTAL ORGANIZATION

International Institute of Humanitarian Law

[Original: English]
[14 November 1995]

1. The International Institute of Humanitarian Law has been concerned with humanitarian problems and humanitarian law in the wide sense. It therefore considers it useful and necessary to adopt a declaration on minimum humanitarian standards which would reflect the existing international law and become an act to be respected by all, and which might help to develop the law further. The principles underlying such a declaration are those that have a character of jus cogens, expressing basic humanitarian consideration which are recognized to be universally binding.

2. We consider that such a declaration should cover all possible situations and in particular take into consideration the recent tragic events. This requires that the law applicable in various situations should be studied in order to find out the principles which are common to all these situations which are so complex and different.

3. There are various reasons for the need for such a global approach. Situations of international armed conflicts, of non-international armed conflicts, of disturbances, tensions and other public emergency situations exist, as well as peaceful situations. Specific rules of international law relate to each of these situations. One of them is the very developed system of international humanitarian law applicable in armed conflicts, which should be taken into consideration when elaborating the declaration.

4. In practice, many situations do not correspond to the scheme defined by various international instruments. Therefore, it is not easy to qualify every situation strictly within the limits of one or another branch of law, while the application of specific rules depends upon the legal qualification of the situation in question.

5. Often a situation is qualified by some as falling within one category, by others within a different category. For instance, a conflict may be qualified by the authorities as requiring simply internal police action, and by the opposing side as an armed conflict situation.

6. Some situations produce the use of force or violence by one party only, but they may cause numerous victims and suffering on the part of the population or some individuals.

---

* Available for consultation in the files of the secretariat.

7. We consider the Declaration of Turku/Åbo to be one of the working papers, but other documents should also be taken into consideration and studied in order to elaborate a well-balanced and complete text of a declaration. These other texts could include, among others, the Statutes of the ad hoc International Tribunals for the Former Yugoslavia and Rwanda, containing standards of behaviour which are the expression of international customary law.

8. In view of the complexity of the subject, it would be good to form a working group of experts belonging to the main tendencies.

9. Armed conflict situations are often the cause of much suffering requiring the respect of humanitarian standards adopted for such situations. Therefore, any preamble of a declaration should also contain a reference to international humanitarian law, in which humanitarian standards for armed conflict cases are to be found.

10. As the International Institute of Humanitarian Law has been engaged in a wide range of humanitarian issues, it would be useful to consult various texts adopted by its bodies. To this effect we draw attention, among others, to the Declaration of the Protection of Refugees, Asylum Seekers and Displaced Persons adopted in 1989 and the Declaration on the Rules of International Humanitarian Law Governing the Hostilities in Non-International Armed Conflicts, adopted in 1990.* Besides these, there are other documents of the Institute which are available in the search for a declaration on humanitarian standards. The Institute is ready not only to contribute further to the elaboration of a declaration, but it is also ready, if necessary, to host some of the meetings devoted to the preparation of the declaration in question, since our Institute is known as one of the centres for the study of humanitarian issues.

11. Any declaration on humanitarian standards should not omit the mention of certain prevention measures, to help to avoid possible violations of such standards. This mention could be made in the preamble to the declaration.

12. Many situations are characterized by hostilities of various types, which call for the application of the principles of the distinction between combatants and civilians. Therefore, reference should be made to such a distinction. We propose:

> "In the case where the situation is characterized by hostilities, the difference between combatants and civilians shall be made."

13. The declaration should contain a paragraph on precautionary measures. There is a legal obligation to undertake such measures. It should read:

> "All precautionary measures that are feasible in case of attack should be undertaken, so as to avoid unnecessary injury, loss or damage."

---

* Available for consultation in the files of the secretariat.

14. Another important principle should be mentioned:

> "In hostilities, it is prohibited to cause superfluous injury or unnecessary suffering."

15. There is another practice which causes great suffering to the population, and that is the scorched earth policy, affecting both individuals and the basic rights of groups. A formulation could read:

> "It is prohibited to attack, destroy, remove or render useless objects indispensable for the survival of the civilian population."

16. Concerning categories of persons deserving special protection, we draw attention to the practice of forced displacement or abduction of children into another territory without leaving any trace, so that the identity of these children, when separated from their families, is not preserved. We propose:

> "In the case of the evacuation of children without their parents to a foreign country, such children should be registered with the appropriate impartial humanitarian organization."

17. Women are a category calling for special mention, as they are exposed to additional forms of violence. An article should be inserted in the declaration which could read:

> "Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any other form of indecent assault. They are entitled to treatment which takes into account their special needs."

18. Refugees and displaced persons are frequently a large category of victims following the use of force or other types of violence. Therefore, a special article may be necessary to mention them:

> "These standards are fully applicable to refugees and displaced persons, who shall enjoy, in addition to the rules contained in this Declaration, also the protection of the principles on which protection of refugees and displaced persons is based. In no case shall they be expelled or returned, in any manner whatsoever, to the frontiers where their lives or freedom would be threatened on account of their race, nationality, membership of a particular social group or political opinion."

19. Medical care is an important humanitarian standard and it should not be impaired by any measure of the international community. This could be expressed in the following way:

> "Basic medical care shall not be significantly reduced through political, economic or other measures undertaken by the international community."

20. Concerning assistance by humanitarian organizations, there is a host of such organizations, many of which do not respect the basic principles on which humanitarian assistance should be based. Therefore, mention should be made of humanitarian organizations which are recognized, which could have access to the victims, and which should act in accordance with basic humanitarian principles. In this connection, we draw your attention to Guiding Principles on the Right to Humanitarian Assistance, adopted by the Institute in 1993.*

21. The right to receive humanitarian assistance is of vital importance for any population exposed to violence or similar injustice. An article should be formulated which could read:

> "The population and individuals have the right to receive humanitarian assistance when suffering undue hardship owing to the lack of supplies essential for their survival, when this is the result of the conflict or violence deployed in that area."

22. It would be important to underline the responsibility for acts which cause suffering. An article should be inserted which could read:

> "Any de jure or de facto authority is responsible for the acts committed by their agents, including acts which adversely affect the basic human rights of any person in emergency situations."

23. The importance of making known, disseminating and teaching these minimum humanitarian standards should be underlined. A clause on that subject could form a special article at the end of the declaration, which could read:

> "The minimum humanitarian standards, defined in this Declaration, should be made known and disseminated to all the authorities concerned, and to individuals who may be potential victims."

---

* Available for consultation in the files of the secretariat.

Annex

DECLARATION OF MINIMUM HUMANITARIAN STANDARDS

Adopted by an expert meeting convened by the Institute for Human Rights, Åbo Akademi University, in Turku/Åbo, Finland, 30 November-2 December 1990

Recalling the reaffirmation by the Charter of the United Nations and the Universal Declaration of Human Rights of faith in the dignity and worth of the human person;

Considering that situations of internal violence, disturbances, tensions and public emergency continue to cause serious instability and great suffering in all parts of the world;

Concerned that in such situations human rights and humanitarian principles have often been violated;

Recognizing the importance of respecting existing human rights and humanitarian norms;

Noting that international law relating to human rights and humanitarian norms applicable in armed conflicts do not adequately protect human beings in situations of internal violence, disturbances, tensions and public emergency;

Confirming that any derogations from obligations relating to human rights during a state of public emergency must remain strictly within the limits provided for by international law, that certain rights can never be derogated from and that humanitarian law does not admit of any derogations on grounds of public emergency;

Confirming further that measures derogating from such obligations must be taken in strict conformity with the procedural requirements laid down in those instruments, that the imposition of a state of emergency must be proclaimed officially, publicly, and in accordance with the provisions laid down by law, that measures derogating from such obligations will be limited to the extent strictly required by the exigencies of the situation, and that such measures must not discriminate on the grounds of race, colour, sex, language, religion, social, national or ethnic origin;

Recognizing that in cases not covered by human rights and humanitarian instruments, all persons and groups remain under the protection of the principles of international law derived from established custom from the principles of humanity and the dictates of public conscience;

Believing that it is important to reaffirm and develop principles governing behaviour of all persons, groups, and authorities in situations of internal violence, disturbances, tensions and public emergency;

Believing further in the need for the development and strict implementation of national legislation applicable to such situations, for strengthening cooperation necessary for more efficient implementation of national and international norms, including international mechanisms for monitoring, and for the dissemination and teaching of such norms;

Now, therefore, ...

Proclaim this Declaration of Minimum Humanitarian Standards.

Article 1

This Declaration affirms minimum humanitarian standards which are applicable in all situations, including internal violence, disturbances, tensions, and public emergency, and which cannot be derogated from under any circumstances. These standards must be respected whether or not a state of emergency has been proclaimed.

Article 2

These standards shall be respected by, and applied to all persons, groups and authorities, irrespective of their legal status and without any adverse discrimination.

Article 3

1. Everyone shall have the right to recognition everywhere as a person before the law. All persons, even if their liberty has been restricted, are entitled to respect for their person, honour and convictions, freedom of thought, conscience and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction.

2. The following acts are and shall remain prohibited:

(a) violence to the life, health and physical or mental well-being of persons, in particular murder, torture, mutilation, rape, as well as cruel, inhuman or degrading treatment or punishment and other outrages upon personal dignity;

(b) collective punishments against persons and their property;

(c) the taking of hostages;

(d) practising, permitting or tolerating the involuntary disappearance of individuals, including their abduction or unacknowledged detention;

(e) pillage;

(f) deliberate deprivation of access to necessary food, drinking water and medicine;

(g) threats or incitement to commit any of the foregoing acts.

Article 4

1. All persons deprived of their liberty shall be held in recognized places of detention. Accurate information on their detention and whereabouts, including transfers, shall be made promptly available to their family members and counsel or other persons having a legitimate interest in the information.

2. All persons deprived of their liberty shall be allowed to communicate with the outside world including counsel in accordance with reasonable regulations promulgated by the competent authority.

3. The right to an effective remedy, including habeas corpus, shall be guaranteed as a means to determine the whereabouts or the state of health of persons deprived of their liberty and for identifying the authority ordering or carrying out the deprivation of liberty. Everyone who is deprived of his or her liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of the detention shall be decided speedily by a court and his or her release ordered if the detention is not lawful.

4. All persons deprived of their liberty shall be treated humanely, provided with adequate food and drinking water, decent accommodation and clothing, and be afforded safeguards as regards health, hygiene, and working and social conditions.

Article 5

1. Attacks against persons not taking part in acts of violence shall be prohibited in all circumstances.

2. Whenever the use of force is unavoidable, it shall be in proportion to the seriousness of the offence or the objective to be achieved.

3. Weapons or other material or methods prohibited in international armed conflicts must not be employed in any circumstances.

Article 6

Acts or threats of violence the primary purpose or foreseeable effect of which is to spread terror among the population are prohibited.

Article 7

1. The displacement of the population or parts thereof shall not be ordered unless their safety or imperative security reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the population may be transferred and received under satisfactory conditions of shelter, hygiene, health, safety, and nutrition. Persons or groups thus displaced shall be allowed to return to their homes as soon as the conditions which made their displacement imperative have ceased. Every effort shall be made to enable those so displaced who wish to remain together

to do so. Families whose members wish to remain together must be allowed to do so. The persons thus displaced shall be free to move around in the territory, subject only to the safety of the persons involved or reasons of imperative security.

2. No persons shall be compelled to leave their own territory.

Article 8

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his or her life.

2. In addition to the guarantees of the inherent right to life, and the prohibition of genocide, in existing human rights and humanitarian instruments, the following provisions shall be respected as a minimum.

3. In countries which have not yet abolished the death penalty, sentences of death shall be carried out only for the most serious crimes. Sentences of death shall not be carried out on pregnant women, mothers of young children or on children under 18 years of age at the time of the commission of the offence.

4. No death sentence shall be carried out before the expiration of at least six months from the notification of the final judgement confirming such death sentence.

Article 9

No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence without previous judgement pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by the community of nations. In particular:

(a) the procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him or her, shall provide for a trial within a reasonable time, and shall afford the accused before and during his or her trial all necessary rights and means of defence;

(b) no one shall be convicted of an offence except on the basis of individual penal responsibility;

(c) anyone charged with an offence is presumed innocent until proved guilty according to law;

(d) anyone charged with an offence shall have the right to be tried in his or her presence;

(e) no one shall be compelled to testify against himself or herself or to confess guilt;

(f) no one shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure;

(g) no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under applicable law, at the time when it was committed.

Article 10

Every child has the right to the measures of protection required by his or her condition as a minor and shall be provided with the care and aid the child requires. Children who have not yet attained the age of 15 years shall not be recruited in or allowed to join armed forces or armed groups or allowed to take part in acts of violence. All efforts shall be made not to allow persons below the age of 18 to take part in acts of violence.

Article 11

If it is considered necessary for imperative reasons of security to subject any person to assigned residence, internment or administrative detention, such decisions shall be subject to a regular procedure prescribed by law affording all the judicial guarantees which are recognized as indispensable by the international community, including the right of appeal or to a periodical review.

Article 12

In every circumstance, the wounded and sick, whether or not they have taken part in acts of violence, shall be protected and treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them on any grounds other than their medical condition.

Article 13

Every possible measure shall be taken, without delay, to search for and collect wounded, sick and missing persons and to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled or mutilated, and to dispose of them with respect.

Article 14

1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian missions.

2. Under no circumstances shall any person be punished for having carried out medical activities compatible with the principles of medical ethics, regardless of the person benefiting therefrom.

Article 15

In situations of internal violence, disturbances, tensions or public emergency, humanitarian organizations shall be granted all the facilities necessary to enable them to carry out their humanitarian activities.

Article 16

In observing these standards, all efforts shall be made to protect the rights of groups, minorities and peoples, including their dignity and identity.

Article 17

The observance of these standards shall not affect the legal status of any authorities, groups, or persons involved in situations of internal violence, disturbances, tensions or public emergency.

Article 18

1. Nothing in the present standards shall be interpreted as restricting or impairing the provisions of any international humanitarian or human rights instrument.

2. No restriction upon or derogation from any of the fundamental rights of human beings recognized or existing in any country by virtue of law, treaties, regulations, custom, or principles of humanity shall be admitted on the pretext that the present standards do not recognize such rights or that they recognize them to a lesser extent.

Turku/Åbo, 2 December 1990